

Docket No. Kermani 35;
67108-368PUS1**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED**
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Applicant: Kermanis, Bahram Ghaffarzadeh Group Art Unit: 2626
Serial No.: 09/483,762 Examiner: Opsasnick, Michael
Filed: January 14, 2000 Confirmation No.: 8802
For: VOICE COMMAND REMOTE CONTROL SYSTEM

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

This Reply Brief is filed in response to the Examiner's Answer, mailed August 6, 2008.

The Examiner states on page 11 of the Answer that using a voice-activated recording function is a "well known function in the art of voice activated remote control technology." Appellant respectfully traverses this conclusion. At no point in the prosecution has the Examiner provided support for this statement, nor has there been any Office Notice of it. The Examiner cannot rely on "common knowledge" without support unless it is capable of such instant and unquestionable demonstration as to defy dispute. (See MPEP 2144.03). Since the cited "common knowledge" is not capable of "instant and unquestionable demonstration" the Examiner is required to provide support for this assertion or it must be disregarded for purposes of deciding this appeal.

There is no *prima facie* case of obviousness because the proposed combination cannot be made. The Kimura reference specifically requires speech processing at a remote control unit to achieve the various objects of that reference as listed in the

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Summary of the Invention section. If one were to modify Kimura's teachings as suggested by the Examiner, then the reference would be rendered incapable of performing the stated objects. Any such modification to a reference is not permitted and does not establish a *prima facie* case of obviousness. See, e.g., MPEP 2143.01(V) and (VI).

For example, the Kimura reference requires processing speech at the remote control unit in order to automatically adjust a speech recognition setting if a voice command is rejected by the speech recognition means. Col. 4, lines 10-37. If one were to place the speech recognition means in the receiving controlled device (rather than in the remote control transmitter), then there would be no ability to automatically adjust the speech recognition setting of the transmitter device. There is no feedback, for example, from a remotely controlled household appliance to a remote control transmitter telling the transmitter whether a particular received signal was accepted or rejected. If one took the Examiner's suggestion of modifying Kimura by taking the speech recognition means out of Kimura's transmitter, then at least that expressly stated object would be defeated. In other words, the Examiner's proposed modification renders Kimura incapable of performing its intended function.

There are other functions required by the Kimura reference that are rendered inoperative if one makes the Examiner's proposed modification. It would change the entire principle of operation of the Kimura reference if one were to take the non-analogous base station arrangement of Ladden and use that to modify the Kimura remote control transmitter. Such a modification is not permissible when attempting to manufacture a *prima facie* case of obviousness.

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The rejections under 35 U.S.C. § 103 must be reversed because the proposed combination cannot be made.

When trying to provide some reason for making the proposed combination, the Examiner cites to the portion of the Kimura reference that states:

Current state of the art coders/decoders, commonly called codecs, are designed to reproduce human speech for optimum human listening quality. Typically, these codecs are implemented in wireless communication systems requiring such optimum human listening quality. These codecs, however, do not optimally code speech for use by speech recognition equipment.

Contrary to the examiner's opinion, the cited portion does not provide a reason or motivation to make the combination of Kimura in view of Ladden. The examiner argues that the motivation provided by this citation is to create the combination in order to permit a more powerful codec. The cited portion discloses only that the current state of the art codecs are not optimized for use with speech recognition equipment. The only motivation, if any, which can be found in the above citation, would be for a person having ordinary skill in the art to optimize a codec within a wireless communication device for use with speech recognition. The disclosure of Ladden is directed in no way to the placement of speech recognition equipment, or limitations on its inclusion within a handheld device.

Further, the Kimura reference addresses this issue by providing features within the remote control transmitter device to improve the device and meet the stated objects of Kimura. There is, therefore, no benefit to add anything from the Ladden reference to Kimura's stated solution to the problem.

Moreover, Ladden requires that a mobile station, which is not analogous to a remote control transmitter as the two have very different structures and completely different functions, be switched from one codec to another before the base station speech recognition function will be activated. Kimura's remote control transmitter does not have such a capability and there is no reason for adding it. Therefore, the proposed combination does not result in a workable arrangement and there is no reason for making it.

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CLOSING

For the reasons set forth above and in Appellant's opening brief, all rejections must be reversed.

Respectfully submitted,

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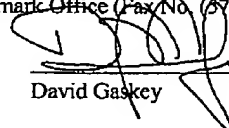
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Dated: October 6, 2008

CERTIFICATE OF FACSIMILE

I hereby certify that this Reply Brief, relative to Application Serial No. 09/483,762, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on October 6, 2008.


David Gaskey